

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA

Plaintiff(s)

vs.

Case Number: 09-00045-01-CR-W-SOW

GORDON P. GRANT
Defendant(s)

MOTION UNDER U.S.C. § 2255
TO VACATE, SET ASIDE OR CORRECT A SENTENCE
BY A PERSON IN FEDERAL CUSTODY

Name (under which you were convicted): GORDON P. GRANT	
Place of Confinement: TERMINAL ISLAND F.C.I.	Prisoner No.: 21382-045

1. (a) Name and location of court which entered the judgment of conviction you are challenging: UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI
400 EAST NINTH ST. KANSAS CITY, MO. 64106

(b) Criminal docket or case number (if you know): 09-00045-01-CR-W-SOW

2. (a) Date of the judgment of conviction (if you know): 4-7-2010

(b) Date of sentencing: 4-7-2010

3. Length of sentence: 360 MONTHS

4. Nature of crime (all counts): ATTEMPTED DISTRIBUTION
RECEIPT OF CHILD PORNOGRAPHY
POSSESSION OF CHILD PORNOGRAPHY
PUBLISHING A NOTICE

5. (a) What was your plea? (Check one)

(1) Not guilty ☐

(2) Guilty ☒

(3) Nolo contendere (no contest) ☐

(b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or what did you plead guilty to and what did you plead not guilty to? _____

6. If you went to trial, what kind of trial did you have? (Check one) Jury ☐ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial Yes ☐ No ☒

8. Did you appeal from the judgment of conviction? Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

(b) Docket or case number (if you know): 10-1887

(c) Result: APPEAL DISMISSED

(d) Date of result (if you know): AUGUST 20, 2010

(e) Citation to the case (if you know): 391 FED. APPX. 575: 2010 U.S. APP. LEXIS 17705

(f) Grounds raised: N/A

(g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

(1) Docket or case number (if you know): _____

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

(5) Grounds raised: _____

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications, concerning this judgment of conviction in any court?

Yes ☐ No ☒

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: _____
(2) Docket or case number (if you know): _____
(3) Date of filing (if you know): _____
(4) Nature of the proceeding: _____
(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(b) If you filed any second motion, petition, or application, give the same information:

- (1) Name of court: _____
(2) Docket of case number (if you know): _____
(3) Date of filing (if you know): _____
(4) Nature of the proceeding: _____
(5) Grounds raised: _____

(6) Did you receive a hearing where evidence was given on your motion, petition, or application?

Yes ☐

No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition or application?

(1) First petition: Yes ☐ No ☒

(2) Second petition: Yes ☐ No ☒

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: N/A

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: 5-LEVEL DISTRIBUTION ENHANCEMENT AMENDMENT TO USSC SEC. 2G2.2 (b)(3)(B) AND 2G3.1(b)(1)(B)

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

- (1) MY CONVICTION OF THE "ATTEMPTED DISTRIBUTION" WAS ENHANCED WITH THE FILE SHARING SOFTWARE AND BECAUSE MATERIAL WAS RECEIVED IN EXCHANGE WITH THE PURPOSE OF OBTAINING OTHER MATERIAL.
- (2) THE ORIGINAL SENTENCE OF 360 MONTHS, AND THE RECENT CLARIFYING AMENDMENT CORRECTS THE IMPOSED TERM UNDER THE AMENDED GUIDELINES REQUIRING A REDUCTION OF THE ORIGINAL SENTENCE.

(b) Direct Appeal of Ground One:

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: BECAUSE MY ATTORNEY FILED AN ANDER'S BRIEF WITHOUT MY INPUT ALSO THE CLARIFYING AMENDMENT WAS NOT ADDRESSED AT THAT TIME.

(c) Post-Conviction Proceedings:

- (1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

- (2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise

BECAUSE MY DIRECT APPEAL WAS DISMISSED, I LACKED THE FUNDS TO SEEK FURTHER RELIEF.

GROUND

COLLUSIONAL ISSUES BETWEEN MY ATTORNEY AND I, WHICH LED TO HIM FILING A MOTION TO BE REMOVED, AND FILING A ANDER'S BRIEF.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

THE FIRST PAGE OF THE ANDER'S BRIEF WAS A MOTION TO WITHDRAW, AND THE APPEAL COURT ACCEPTED, YET ALLOWED THE BRIEF TO ENTERED INTO RECORD. THE APPEAL WAIVER TO MY KNOWLEDGE ONLY INCLUDED THE SENTENCE ALL PARTIES AGREED TO PER PLEA AGREEMENT, NOT THE STATUTORY MAXIMUM I RECEIVED. I WAS DENIED THE ABILITY TO FILE ANY MOTIONS/BRIEFS IN MY APPEAL AFTER THE APPEALS COURT DESIGNATED ME AS PROCEEDING IN "PRO SE" THEN DISMISSED MY APPEAL.

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or

Name and location of the court where the motion or petition was filed:

Docket or case number (if you know):

Date of the court's

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise

GROUND

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) Direct Appeal of Ground Three:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☒

(2) If you answer to Question (c)(1) is "Yes," state:

Type of motion or _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☒

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise issue: _____

GROUND _____

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

(b) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why:

(c) **Post-Conviction Proceedings:**

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise the issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment of conviction you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and issues _____

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At the preliminary LARRY PACE 818 GRAND AVE. SUITE 300

(b) At the arraignment and plea: LARRY PACE 818 GRAND AVE. SUITE 300

(c) At the trial: N/A

(d) At sentencing: LARRY PACE 818 GRAND AVE. SUITE 300

(e) On appeal: LARRY PACE 818 GRAND AVE. SUITE 300
"(MOTION TO WITHDRAW FILED INTO RECORD)"

(f) In any post-conviction proceeding: _____

(g) On appeal from any ruling against you in a post-conviction proceeding: N/A

16. Were you sentenced on more than one court of an indictment, or on more than one indictment, in the same court and at the same Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.*

THE 5-LEVEL ENHANCEMENT AMENDMENT WAS ADOPTED BY THE SENTENCING
COMMISSION AS OF NOVEMBER 1, 2016 DEFENDANTS ARE REQUIRED TO FILE
A 28 U.S.C 2255 MOTION BASED ON THE AMENDMENT.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of –

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

Therefore, movant asks that the Court grant the following relief: ACCORDING TO THE SENTENCING TABLE, TO HAVE MY SENTENCE REDUCED BY 5-LEVELS TO REFLECT THE REDUCTION IN ACTUAL SENTENCE GOVERNED BY THE AMENDED GUIDELINES.

or any other relief to which movant may be entitled.

(60-MONTHS - 80 MONTHS)
LOW END HIGH END

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on 6-9-17.
(month, date, year)

Executed (signed) JUNE 06, 2017 (date).



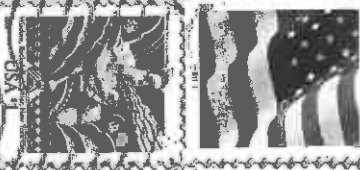
Signature of Movant

GORDON GRANT #21382-045
FEDERAL CORRECTIONAL INSTITUTE
TERMINAL ISLAND
P.O. BOX 3007
SAN PEDRO, CA. 90733

LEGAL MAIL

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U S Dist Court
Court Clerk
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United States

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FBI LOS ANGELES POLICE 90052
THU 08 JUN 2017 7PM
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WEST DIST. OF MO.
KANSAS CITY MO



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